IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dau Singh alias Dau Lal. Versus Smt. Chandu & ors.

S.B. Criminal Misc. Petition No. 1296/2006
against the order dated 27-7-2006 passed
by the Additional Chief Judicial Magistrate
No.2, Bikaner in Criminal Case No.421/95.

...

Date of Order: October 20, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Bheemkant Vyas, for the petitioner.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, the Code" hereinafter), the petitioner has challenged the order dated 27-7-2006 passed by the Additional Chief Judicial Magistrate No.2, Bikaner (for short, "the trial Court" hereinafter) in Criminal Case No.421/1995, whereby the trial Court, on an application filed by the non-petitioners seeking monthly allowance of maintenance, granting maintenance @ Rs.1000/- to the non-petitioner No.1 and @ Rs.500/- each in favour of non-petitioners No.2 and 3 from the date of the application.

Heard learned counsel for the petitioner and carefully

gone through the order impugned.

From a perusal of the order impugned, it is clear that the petitioner has not disputed that the non-petitioner No.1 is his legally wedded wife and non-petitioners No.2 and 3 are his sons. The income of the petitioner has been admitted by him that after deductions, he gets Rs.5500/- per month as the salary.

At the time of passing the order for grant of monthly allowance of interim maintenance, what is required to be considered are only the material available on record and the pleadings of the parties and nothing more. The evidence in such matters is yet to be led. In my view, granting monthly allowance of interim maintenance cannot be said to be erroneous warranting interference.

The criminal miscellaneous petition is dismissed. However, the trial Court is directed to decide the application under Section 125 of the Code expeditiously, preferable within four months from the date of receipt of a copy of this order.

(H.R. PANWAR), J.

mcs